

**POLICY
FOR THE
20TH HOLE TOWNHOMES ASSOCIATION, LTD.
REGARDING COLLECTION POLICIES AND PROCEDURES**

- SUBJECT:** Adoption of the policy and procedures regarding the collection of assessments
- PURPOSE:** To adopt a policy describing the process used in collecting delinquent assessments, including time frames of notices, late fees and interest, indicate when an account gets turned over to legal counsel, and how payments are applied, etc.
- AUTHORITY:** The Declaration, Articles and Bylaws of the Association and Colorado law (*Colorado Revised Statutes 38-33.3-209.5*)
- EFFECTIVE DATE:** June 25, 2008
- RESOLUTION:** The Association hereby adopts the following policy and procedures regarding the collection of assessments:

RECITALS

1. The Association is charged with certain responsibilities regarding the care, maintenance and service of certain portions of the units and common elements.
2. The Association must have the financial means to discharge its responsibilities.
3. The Board of Directors has the right to pursue collection of assessments and other charges from Owners pursuant the Association's Declarations ("Declaration") and its Bylaws.
4. The Board of Directors of the Association desires to adopt a uniform and systematic procedure to collect assessments and other charges of the Association.
5. The Board of Directors believes that it is in the best interest of the Association to refer delinquent accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue.
6. No sale or transfer shall relieve such unit lot from liability for any assessments thereafter become due or from the lien thereof.

PROCEDURES

1. Due Dates. The quarterly assessment as determined by the Association and as allowed for in the Declaration shall be payable on or before the 1st day of each quarter (January, April, July, October). Assessments or other charges not paid in

full to the Association within 10 days of the due date shall be considered past due and delinquent and shall incur late fees and interest as provided below.

2. Receipt Date. The Association shall post payments on the day that the payment is received in the Association's offices.
3. Late Charges on Delinquent Installments. The Association shall impose on a monthly basis, a \$10.00 late charge, for each Owner who fails to timely pay his/her assessment within 10 days of the due date. This late charge shall be a "common expense" for each delinquent Owner.
4. Personal Obligation for Late Charges. The late charge shall be the personal obligation of the Owner(s) of the unit for which such assessment or installment is unpaid. All late charges shall be due and payable immediately without notice, in the manner provided by the Declaration (and as set forth therein) for payment of assessments.
5. Interest on Late Fees. The Association shall charge interest from the date of delinquency at the rate of 12% per annum. Interest is paid on the amount due and not on the late fees.
6. Return Check Charges. In addition to any and all charges imposed under the Declaration, Articles of Incorporation and Bylaws, the Rules and Regulations of the Association or this Resolution, a \$35 fee, or other amount deemed appropriate by the Board of Directors, shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to, insufficient funds. This returned check charge shall be a "common expense" for each Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such return checks charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law.

Returned check charges shall be the obligation of the Owner(s) of the unit for which payment was tendered to the Association. Returned check charges shall become effective on any instrument tendered to the Association for payment of sums due under the Declaration, Articles, Bylaws, Rules and Regulations or the Resolution after the date adopted as shown above. If two or more of an Owner's checks are returned unpaid by the bank within any (fiscal) year, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order. This return check charge shall be in

addition to any late fees or interest incurred by an Owner. Any returned check shall cause an account to be past due if full payment of the monthly assessment is not timely made within 10 days of the due date.

7. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

8. Application of Payments. All sums collected on a delinquent account shall be remitted to the Association's attorney until the account is brought current. All payments received on account of any Owner or the Owner's property (hereinafter collectively "Owner"), shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late charges, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner pursuant to the Declaration, Articles, Bylaws, Rules and Regulations, or this Resolution, prior to application of the payment to any special or regular assessments due or to become due with respect to such Owner.

9. Collection Process.

(a) After an assessment or other charges due to the Association becomes delinquent more than 10 days past due date the Board is directed to send a written notice ("First Notice") of non-payment, amount past due, notice that interest and late fees have accrued and request for immediate payment.

(b) After an assessment or other charges due to the Association becomes more than 30 days delinquent, the Board is directed to send written notice ("Second Notice") of non-payment, amount past due, notice that interest and late fees have accrued, notice of intent to file a lien and request for immediate payment.

(c) After an assessment or other charges due the Association becomes more than 60 days delinquent, the Board is directed file a lien and turn the account over to the Association's attorneys for collection. Upon receiving the delinquent account, the Association's attorneys shall send a letter to the delinquent Owner demanding immediate payment for past due assessments or other charges due. Upon further review, the Association's attorneys may file a summons and complaint with the court of jurisdiction. If a judgment or decree is obtained, including without limitation a

foreclosure action, such judgment or decree shall include reasonable attorney's fees together with the cost of the action and any applicable interest.

(d) In addition to the steps outlined above, the Association may also elect to suspend the voting rights of any Owner whose account is past due at the time of such voting.

10. Acceleration of Assessments. The Board reserves the right to accelerate and call due the entire unpaid annual assessment on any delinquent account. Such acceleration shall result in the entire unpaid annual assessment being due to the Association immediately.

11. Collection Procedures/Time Frames. The following time frames shall be followed for use in the collection of the monthly assessment and other charges.

Due date (date payment due) 1st day of the quarter due

Past due date (date payment is late if not received on or before that date) 10 days after due date

First Notice (notice that late charges and interest have accrued) 10 days after due date

Second Notice (notice that late Charges and interest have accrued, Notice of intent to file lien) 30 days after due date

Delinquent account turned over to Association's attorney, Lien filed, Demand letter sent to Owner 60 days after due date

The attorney is to consult with the Association at all times, to determine if payment has been arranged and what collection procedures are appropriate.

12. Certificate of Status of Assessment. The Association shall furnish to an Owner or such Owner's designee upon written request, first class postage prepaid, return receipt, to the Association's agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's property for a \$15 fee. However, if the account has been turned over to the Association's attorney, such request shall be handled through the attorney.

13. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any unit within the Association, the Board shall advise the Association's attorney of the same and turn the account over to the Association's attorney. The Association shall be notified of all bankruptcy filed by an Owner within 5 days of filing.

14. Use of Certified Mail/Regular Mail. In the event the Association shall cause a collection or demand letter or notices to be sent to a delinquent Owner by regular mail, the Association may also cause, but shall not be required to send, an additional copy of that letter or notice by certified mail.

15. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorneys, the attorney shall file all appropriate action to collect the accounts referred. After an account has been referred to any attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. The attorney is authorized to take whatever action is necessary, in consultation with the Board of Directors, believed to be in the best interests of the Association, including, but not limited to:

- (a) Filing of a suit against the delinquent Owner for a money judgment;
- (b) Instituting a judicial foreclosure action of the Association's lien;
- (c) Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association interests;
- (d) File a court action seeking appointment of a receiver.

All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney.

Upon referral of any matter to the Association's attorney, the Association shall pay the Association's attorneys their usual and customary charges as well as any costs incurred by the attorney on the Association's behalf, promptly upon receipt of the monthly invoice from the attorney.

16. Appointment of a Receiver. The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado law. A receiver is a disinterested person, appointed by the court who manages the property according to the court's order. The purpose of a receivership for the Association is to: obtain payment of current assessments, reduce past due assessments; and prevent the waste and deterioration of the property.

17. Judicial Foreclosure. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner in county court for a money judgment.

The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action.

18. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

19. Notification to and Communication with Owners. The Association shall, upon request, provide all Owners with a copy of this Resolution which shall become effective upon its adoption. All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. Neither the attorney nor any member of the Board of Directors shall discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact.

20. Ongoing Evaluation. Nothing in this Resolution shall require the Association to take specific actions other than to notify the Owners of the adoption of these policies and procedures. Once an Owner's account is turned over to the Association's attorney, all communication regarding the account must be made through the attorney. However, the Association has the option and right to continue to Evaluation each delinquency on a case by case basis.

21. Defenses. Failure of the Association to comply with any provision in this Collection Policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Collection Policy.

22. Amendment. This Collection Policy may be amended from time to time by the Board of Directors with the owner approval.

**PRESIDENT'S and
SECRETARY'S
CERTIFICATION**

The undersigned, respectively being the President and Secretary of the 20th Hole Townhomes Association, Ltd., a Colorado nonprofit corporation, certify that the foregoing Resolution was approved and adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors of the Association on 6-25-2009, and in witness thereof, the undersigned have subscribed their names.

20th HOLE TOWNHOMES ASSOCIATION, Ltd.,

By:

Midge B. Noel
President

ATTEST:

By:

Condorine J. Noel
Secretary

Original signed copy on file: